

ORDINANCE NO. 11-43

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A TOTAL OF 11 PARKING SPACES, WHERE 28 PARKING SPACES ARE REQUIRED, ALL OF WHICH BACK OUT INTO THE STREET, WHERE BACKOUT PARKING IS ONLY ALLOWED IN LOW DENSITY RESIDENTIAL DISTRICTS, ALLOW 17 ON-STREET PARKING SPACES, WHERE ONLY 6 ON-STREET PARKING SPACES ARE PERMITTED, TO WAIVE A PORTION OF THE LANDSCAPE MANUAL REQUIRING A SEVEN FOOT LANDSCAPED AREA BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, AND TO ALLOW A NORTH SIDE SETBACK OF 7.63 FEET, AND NO SETBACK ON THE SOUTH SIDE, WHERE 10 FEET ARE REQUIRED FOR EACH SIDE, CONTRA TO HIALEAH CODE §§ 98-2189(7), 98-2186, 98-2192(b), 98-1116, AND 98-2233. **PROPERTY LOCATED AT 887 EAST OKEECHOBEE ROAD, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of June 8, 2011 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow a total of 11 parking spaces, where 28 parking spaces are required, all of which back out into the street, where backout parking is only allowed in low density residential districts, to allow 17 on-street parking spaces, where only 6 on-street parking spaces are permitted, to waive a portion of the landscape manual requiring a seven foot landscaped area between the off-street parking and the right-of-way, and to allow a north side setback

of 7.63 feet and no south side setback, where 10 feet are required for each side, contra to Hialeah Code §§ 98-2189(7), 98-2186, 98-2192(b), 98-1116, and 98-2233, which provide in pertinent part: "*Commercial uses, not found elsewhere in this section.* One parking space for each 200 square feet of gross floor area of the floor area with the greatest floor area within the building, and one parking space for each 500 square feet of the remaining floor area.", "Backout parking shall be allowed in low density residential districts or areas.", "*Property zoned commercial.* Up to 20 percent of required parking may be satisfied by utilizing on-street parking within areas that abut the property line or lines that face a right-of-way, except for streets or rights-of-way where on-street parking is not permitted.", " "In the C-2 liberal retail commercial district, the side yard shall be the same as in the C-1 district.", and "The City Council, by ordinance, may waive the minimum landscaping requirements of the Miami-Dade County Landscape Manual" as modified and supplemented by the city landscape manual which provides at D(7) "Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscaped strip incorporating said planting and/or wall on private property.", respectively. Property located at 887 East Okeechobee Road, Hialeah, Miami-Dade County, Florida, zoned C-2 (Liberal Retail Commercial District), and legally described as follows:

ALL OF BLOCK 4, WEST BUENA VISTA, CONSISTING OF THE FOLLOWING:

LOTS 1, 2 AND 3, BLOCK 4, OF WEST BUENA VISTA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 7, PAGE 6 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF AND 47.12 FEET NORTHEASTERLY OF THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 4, OF WEST BUENA VISTA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 6 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 2 OF SAID BLOCK 4, RUNNING SOUTHWESTERLY ALONG THE SAID SOUTHEASTERLY LINE OF LOT 1 A DISTANCE OF 47.12 FEET TO THE

AFOREMENTIONED MOST SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 1, DISTANCE OF 70.79 FEET TO THE BEGINNING OF A RADIAL CURVE TO THE RIGHT; THENCE NORTHWESTERLY ALONG SAID RADIAL CURVE HAVING A CENTRAL ANGLE OF 138°38'00" AND A RADIUS OF 25 FEET, A DISTANCE OF 33.99 FEET THROUGH AN ANGLE OF 77°53'24"; THENCE SOUTHEASTERLY A DISTANCE OF 98 FEET, MORE OR LESS TO THE POINT OF BEGINNING; CONTAINING 3060 SQUARE FEET, MORE OR LESS.

ALSO EXCEPTING THEREFROM THE FOLLOWING:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF AN 47.12 FEET NORTHEASTERLY OF THE MOST WESTERLY CORNER OF LOT 3, BLOCK 4 OF WEST BUENA VISTA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, PAGE 6 OF PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 2 OF SAID BLOCK 4, RUN SOUTHWESTERLY ALONG THE SAID NORTHWESTERLY LINE OF LOT 3 A DISTANCE OF 47.12 FEET TO THE AFOREMENTIONED MOST WESTERLY CORNER OF LOT 3; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 3 A DISTANCE OF 60 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT 3; THENCE NORTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 3 A DISTANCE OF 46.13 FEET; THENCE NORTHWESTERLY A DISTANCE OF 60 FEET MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 2,800 SQUARE FEET, MORE OR LESS.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall

occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

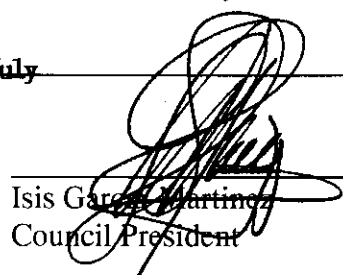
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

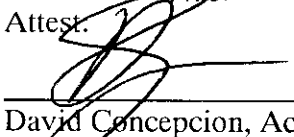
**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 12th day of July, 2011.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Isis Garcia Martinez  
Council President

Attest:   
David Concepcion, Acting City Clerk

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2011.

  
Mayor Carlos Hernandez

Approved as to legal sufficiency and as to form:

  
William M. Grodnick, City Attorney

SALEB\LEGISLATION\2011-ORDINANCES\887EastOkeechobeeRoad-parking-backout-offsite-landscaping-sideSB-JUNE08.doc

Ordinance was adopted by a 6-0 vote with  
Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente,  
Garcia-Martinez, Gonzalez and Yedra voting "Yes",  
Councilmember Hernandez absent.